

that may be affected by a lease, easement, or ROW under this subsection. The MMS may invite any affected State Governor, representative of an affected Indian tribe, and affected local government executive to join in establishing a task force or other joint planning or coordination agreement in carrying out our responsibilities under this part.

§ 285.103 When may MMS prescribe or approve departures from these regulations?

- (a) The MMS may prescribe or approve departures from these regulations when departures are necessary to:
 - (1) Facilitate the appropriate activities on a lease or grant under this part;
 - (2) Conserve natural resources;
 - (3) Protect life (including human and wildlife), property, or the marine, coastal, or human environment; or
 - (4) Protect sites, structures, or objects of historical or archaeological significance.
- (b) Any departure approved under this section and its rationale must:
 - (1) Be consistent with subsection 8(p) of the OCS Lands Act;
 - (2) Protect the environment and the public health and safety to the same degree as if there was no approved departure from the regulations;
 - (3) Not impair the rights of third parties; and
 - (4) Be documented in writing.

§ 285.104 Do I need an MMS lease or other authorization to produce or support the production of electricity or other energy product from a renewable energy resource on the OCS?

Except as otherwise authorized by law, it will be unlawful for any person to construct, operate, or maintain any facility to produce, transport, or support generation of electricity or other energy product derived from a renewable energy resource on any part of the OCS, except under and in accordance with the terms of a lease, easement, or ROW issued pursuant to the OCS Lands Act.

§ 285.105 What are my responsibilities under this part?

As a lessee, applicant, operator, or holder of a ROW grant, RUE grant, or Alternate Use RUE grant, you must:

- (a) Design your projects and conduct all activities in a manner that ensures safety and will not cause undue harm or damage to natural resources, including their physical, atmospheric, and biological components to the extent practicable; and take measures to prevent unauthorized discharge of pollutants including marine trash and debris into the offshore environment.
- (b) Submit requests, applications, plans, notices, modifications, and supplemental information to MMS as required by this part;
- (c) Follow up, in writing, any oral request or notification you made, within 3 business days;
- (d) Comply with the terms, conditions, and provisions of all reports and notices submitted to MMS, and of all plans, revisions, and other MMS approvals, as provided in this part;
- (e) Make all applicable payments on time;
- (f) Comply with the DOI's non-procurement debarment regulations at 2 CFR part 1400;
- (g) Include the requirement to comply with 2 CFR part 1400 in all contracts and transactions related to a lease or grant under this part;
- (h) Conduct all activities authorized by the lease or grant in a manner consistent with the provisions of subsection 8(p) of the OCS Lands Act;
- (i) Compile, retain, and make available to MMS representatives, within the time specified by MMS, any data and information related to the site assessment, design, and operations of your project; and
- (j) Respond to requests from the Director in a timely manner.

§ 285.106 Who can hold a lease or grant under this part?

- (a) You may hold a lease or grant under this part if you can demonstrate that you have the technical and financial capabilities to conduct the activities authorized by the lease or grant and you are a(n):
 - (1) Citizen or national of the United States;

§ 285.107

30 CFR Ch. II (7–1–11 Edition)

(2) Alien lawfully admitted for permanent residence in the United States as defined in 8 U.S.C. 1101(a)(20);

(3) Private, public, or municipal corporations organized under the laws of any State of the United States, the District of Columbia, or any territory or insular possession subject to U.S. jurisdiction;

(4) Association of such citizens, nationals, resident aliens, or corporations;

(5) Executive Agency of the United States as defined in section 105 of Title 5 of the U.S. Code;

(6) State of the United States; and

(7) Political subdivision of States of the United States.

(b) You may not hold a lease or grant under this part or acquire an interest in a lease or grant under this part if:

(1) You or your principals are excluded or disqualified from participating in transactions covered by the Federal nonprocurement debarment and suspension system (2 CFR part 1400), unless MMS explicitly has approved an exception for this transaction;

(2) The MMS determines or has previously determined after notice and opportunity for a hearing that you or your principals have failed to meet or exercise due diligence under any OCS lease or grant; or

(3) The MMS determines or has previously determined after notice and opportunity for a hearing that you:

(i) Remained in violation of the terms and conditions of any lease or grant issued under the OCS Lands Act for a period extending longer than 30 days (or such other period MMS allowed for compliance) after MMS directed you to comply; and

(ii) You took no action to correct the noncompliance within that time period.

§ 285.107 How do I show that I am qualified to be a lessee or grant holder?

(a) You must demonstrate your technical and financial capability to construct, operate, maintain, and terminate/decommission projects for which you are requesting authorization. Documentation can include:

(1) Descriptions of international or domestic experience with renewable energy projects or other types of electric-energy-related projects; and

(2) Information establishing access to sufficient capital to carry out development.

(b) An individual must submit a written statement of citizenship status attesting to U.S. citizenship. It does not need to be notarized nor give the age of individual. A resident alien may submit a photocopy of the Immigration and Naturalization Service form evidencing legal status of the resident alien.

(c) A corporation or association must submit evidence, as specified in the table in paragraph (d) of this section, acceptable to MMS that:

(1) It is qualified to hold leases or grants under this part;

(2) It is authorized to conduct business under the laws of its State;

(3) It is authorized to hold leases or grants on the OCS under the operating rules of its business; and

(4) The persons holding the titles listed are authorized to bind the corporation or association when conducting business with MMS.

(d) Acceptable evidence under paragraph (c) of this section includes, but is not limited to the following: